

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD EUGENE JAMES,

Petitioner,

v.

THE STATE OF CALIFORNIA AND
ROB BONTA,

Respondents.

Case No. 2:22-cv-02190-DAD-JDP (HC)

ORDER:

(1) GRANTING PETITIONER'S SECOND
APPLICATION TO PROCEED *IN FORMA*
PAUPERIS AND DENYING HIS FIRST AS
MOOT; AND

(2) FINDING THAT THE PETITION DOES
NOT STATE A COGNIZABLE SECTION
2254 CLAIM AND GRANTING LEAVE TO
AMEND WITHIN THIRTY DAYS

ECF Nos. 1, 7, & 8

Petitioner, a pre-trial detainee proceeding without counsel, seeks a writ of habeas corpus under 28 U.S.C. § 2254. After reviewing the petition, I find that it fails to state a viable federal claim. I will give petitioner a chance to amend before recommending that this action be dismissed. I will also grant his second application to proceed *in forma pauperis*, ECF No. 8, and deny his first as moot, ECF No. 7.

The petition is before me for preliminary review under Rule 4 of the Rules Governing Section 2254 Cases. Under Rule 4, the judge assigned to the habeas proceeding must examine the habeas petition and order a response to the petition unless it “plainly appears” that the

petitioner is not entitled to relief. *See Valdez v. Montgomery*, 918 F.3d 687, 693 (9th Cir. 2019); *Boyd v. Thompson*, 147 F.3d 1124, 1127 (9th Cir. 1998).

Petitioner raises several claims related to pending state criminal proceedings. ECF No. 1 at 2. But given that petitioner has not been convicted and the proceedings against him are ongoing, his claims are unsuitable to proceed in this action. Under the Supreme Court's decision in *Younger v. Harris*, a federal court may not interfere with ongoing state criminal proceedings absent extraordinary circumstances. 401 U.S. 37, 45 (1971). Petitioner has not offered a substantive argument as to why the claims concerning his arrest cannot be raised in state court, either at trial or, if he is ultimately convicted, by way of direct appeal or collateral attack. Thus, he has not alleged the existence of extraordinary circumstances that warrant federal intervention. *Id.* at 49.

Petitioner may, if he chooses, file an amended petition that addresses this issue. If he does not, I will recommend that this action be dismissed.

It is ORDERED that:

1. Petitioner's application to proceed in forma pauperis, ECF No. 8, is GRANTED and his earlier application, ECF No. 7, is DENIED as moot.

2. Petitioner may file an amended § 2254 petition within thirty days of this order's entry. If he does not, I will recommend that the current petition be dismissed for the reasons stated in this order.

3. The Clerk of Court is directed to send petitioner a federal habeas form with this order.

IT IS SO ORDERED.

Dated: January 4, 2023


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE

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